

REMARKS/ARGUMENTS

Claims 1-9 and 11-20 will be pending upon entry of this amendment.

Claims 1-4, 9, 11, 16 and 19 have been amended. Claim 1 has been amended to correct the grammar and to conform most closely with US claim language to provide clarity. The dependence of claim 3 has been shifted to claim 2 to provide antecedent basis for "the carrier" recited in claim 3. Claim 10 has therefore been cancelled since it would otherwise be duplicative of claim 3. Claims 11, 16 and 19 have been amended to correct claim dependency to claim 3, in view of the cancellation of claim 10. Claim 9 has been amended to correct antecedent basis for "composition." Claim 11 has also been amended to correct a spelling error. Support for the substantive amendments to claims 4 and 11 is found, for instance, in the as-filed claims and in the specification on p. 2, lines 21-27, p. 3, lines 8-19, and p. 7, lines 13-19. No new matter is added.

Interview Summary

A telephone interview was held with the Examiner on November 10, 2005. Applicant noted that in the claims filed July 25, 2005, claim 11 erroneously still recited 5-alpha-androst-16-en-3- α -ol. The lack of unity restriction requirement was briefly discussed in view of this error. The Examiner noted the pending restriction was made in view of the claims pending in front of him. Applicant thanks the Examiner for taking the time to hold the telephone interview.

Response to Lack of Unity Restriction Requirement

Claims 1-20 are subject to a restriction requirement for allegedly lacking a single inventive concept under PCT Rule 13.1.

Applicant elects, with traverse, Group I, claims 1-10, 16, 19 and 20 for examination, wherein the human pheromone is a trimethylamine salt.

The Examiner asserts that the common feature among the three invention groups

is a compound that has the same function as a human female pheromone. The Examiner states that the pheromone compounds recited in the claims, trimethylamine salt, 5-alpha-androst-16-en-3- α -ol and a combination of trimethylamine salt and 5-alpha-androst-16-en-3- α -ol, while sharing a common activity, do not share a common structure, nor are they part of a recognized class of chemical compounds. The Examiner also states that all of the compounds are known and therefore do not define a contribution over the art. The Examiner concludes therefore that the claims lack unity of invention.

The Examiner is reminded that unity of invention has to be considered in the first instance only in relation to the independent claims, as discussed in PCT Annex B, paragraph (c) (http://www.wipo.int/pct/en/texts/pdf/ai_2rev1.pdf). The pending claim set in the instant invention has one independent claim. The remaining claims are all dependent claims, in accordance with the meaning of dependent claims set forth in PCT Annex B, paragraph (c). Thus, lack of unity needs only to be considered with respect to claim 1.

The invention, as recited in claim 1, is a fish attracting composition comprising at least one human female pheromone and at least one compound selected from the group consisting of alkanoic acids having a carbon atom number ranging from C₄ to C₅ and substituted alkanoic acids having a carbon atom number ranging from C₈ to C₁₀. The special technical feature common to all of the independent claims is the *combination* of at least one human female pheromone and at least one alkanoic acid *in a composition*. In stating that the common feature of the claims is a human female pheromone, therefore, the Examiner has mischaracterized the special technical feature of the claimed invention.

Additionally, the Examiner has provided no evidence that the special technical feature is disclosed in the prior art. As discussed in PCT Annex B, paragraph (c)(i), if the independent claim avoids the prior art, there is no lack of unity. Furthermore, there is no need to then consider unity of invention with regard to dependent claims. This is true whether the independent claim is a genus claim or not. Therefore, the Examiner has not

met the burden of proof under PCT Rule 13.2 to conclude there is a lack of unity in the instant invention. Accordingly, the lack of unity of invention restriction is improper and should be withdrawn. All of the claims should be examined together. In addition, the full scope of independent claim 1 should be examined.

The lack of unity restriction formulated by the Examiner is also incorrect with regard to what claims read on a trimethylamine salt as the human pheromone in the composition. Specifically, the Examiner has grouped claims reciting a trimethylamine salt as the pheromone (Group I) separately from those reciting a trimethylamine salt and another compound (Group III). While the Examiner may describe the pheromone of Group III as "a combination of trimethylamine salt and 5-alpha-androst-16-en-3- α -ol," these two compounds are not combined *chemically* in the invention. They are combined in that the claimed fish attracting composition comprises both of them. Thus, the trimethylamine salt remains a trimethylamine salt in the claims of Group III. It has the same activity and the same structure as the trimethylamine salt in the claims of Group I. Thus, all the claims that specifically recite or read on a trimethylamine salt should be included in the same group. Accordingly, should the Examiner maintain the lack of unity, which Applicant believes is improper, Group I should consist of claims 1-9 and 11-20 wherein the pheromone in the composition is a trimethylamine salt.


Accordingly, Applicants respectfully request that the lack of unity restriction requirement be reconsidered and withdrawn, and that all of the claims be examined together, and the full scope of the independent claim should be examined. Alternatively, Applicants respectfully request that the elected group, Group I, consist of all the claims reading on trimethylamine salt as the pheromone, as discussed above.

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